

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MR. MONTEZ FREEMAN,)
Plaintiff,)
vs.) Civil Action No. 14-1106
UNITED STATES DRUG) Chief Magistrate Judge Maureen P. Kelly
ENFORCEMENT AGENCY,)
Defendant.) Re: ECF No. 40

ORDER

Presently before the Court is a “Motion to Reconsider” filed on April 28, 2016, by Plaintiff Mr. Montez Freeman (“Plaintiff”), ECF No. 40. Also before the Court is Defendant’s Opposition to Plaintiff’s Motion to Reconsider. ECF No. 42.

In Plaintiff’s Motion, he seeks reconsideration of this Court’s dismissal of his Complaint, via Opinion and Order of November 30, 2015, ECF No. 38,¹ on the basis that the Court erred in its evaluation of Plaintiff’s claim concerning lack of notice of the subject forfeiture proceeding. Because Plaintiff seeks to relitigate this issue, his motion is properly characterized as a Motion to Alter or Amend a Judgment pursuant to Federal Rule of Civil Procedure 59(e). See United States v. Fiorelli, 337 F.3d 282, 288 (3d Cir. 2003) (explaining that a motion under Rule 59(e) is used to allege legal error and relitigate original issue decided by district court). A motion under Rule 59(e) must be filed no later than 28 days after the entry of judgment. In this instant case, a Judgment Order was entered in favor of Defendant and against Plaintiff on November 30, 2015. ECF No. 39. Plaintiff’s Motion to Reconsider is clearly untimely, as it was filed nearly five

¹ As part of the Order granting Defendant’s Motion to Dismiss, the Court included language concerning the manner in which the Order could be appealed. ECF No. 38 at 7.

months after the entry of judgment. Accordingly, Plaintiff cannot obtain relief therefrom. Nonetheless, this Court notes that even if the instant Motion to Reconsider was timely filed, it is without legal merit and would be denied.

AND NOW, this 9th day of May, 2016, Defendant's Motion to Reconsider, ECF No. 40, is DENIED.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, any appeal from this Order must be taken by filing a notice of appeal as provided in Rule 3, Fed. R. App. P., with the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219.

/s/ Maureen P. Kelly
MAUREEN P. KELLY
CHIEF UNITED STATES MAGISTRATE JUDGE

Dated: May 9, 2016

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All counsel of record via CM-ECF